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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,363	10/30/2003	Wayne H. Hanson	1-24778	7882

4859 7590 10/27/2006

MACMILLAN SOBANSKI & TODD, LLC  
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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/697,363	Applicant(s) HANSON ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3, 4, 6, 14, 15 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3, 4, 6, 14, 15 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 3, 4, and 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,488,332 B1 to Markwald.

Markwald discloses a seating system that includes all the limitations recited in claims 3, 4, and 20-23. Markwald shows a seating system having a base 4 (see Fig. 1), a seat tray 7, a sliding mechanism 17 configured to mount the seat tray and limits sliding movement of the seat tray to substantially horizontal movement, a seat back 8 pivotally mounted relative to the seat tray at a seat back pivot point, a leg support 10 pivotally mounted with respect to the seat and depending from the seat tray, and a biasing element 14 connected relative to the base and the seat tray and configured to store energy and have a damping effect upon application of force by a user to move the seat tray forward and a configured to release energy when the user relaxes to automatically move the seat tray rearward wherein the sliding mechanism is configured with sufficiently low friction to enable the user to experience extension tone with little

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resulting resistance to the forward movement of the seat tray and little resulting resistance to pivoting of the leg support, and the seating system is configured for forward movement of the seat tray and pivoting of the leg support caused by tone extension of the user without requiring manual operation (see column 4, lines 3-36).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 14, 15, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markwald in view of U.S. Patent No. 327,775 to Dodge.

Markwald discloses a seating system that is basically the same as that recited in claims 6, 14, 15, 24, and 25 except that the seat back lacks a back support member moving downward and a locking mechanism, as recited in the claims. See Figures 1 and 2 of Markwald for the teaching that the seat back is connected to a back support member pivotally connecting the seat back to the base. Dodge shows a seating system similar to that of Markwald wherein the seating system has a base *E* (see Fig. 1), a seat back *A* connected to a back support member *H* such that downward movement of the back support member in a substantially vertical direction causes the seat back to pivot at the seat tray to recline the seat back, and a locking mechanism *a* supported with respect to the base. Therefore, it would have been obvious to one having ordinary skill

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in the art at the time the invention was made to modify the seating system of Markwald such that the seat back is connected to a back support member wherein downward movement of the back support member in a substantially vertical direction with respect to the base causes the seat back to pivot at the seat tray to recline the seat back and causing the seat tray to slide forward with respect to the base, and a locking mechanism supported with respect to the base. One would have been motivated to make such a modification in view of the suggestion in Dodge that the seat back configuration provides a slideably adjustable seat back that is removably coupled to the base.

### ***Response to Arguments***

5. Applicant's arguments filed 27 July 2006 have been fully considered but they are not persuasive. Applicant argues that Markwald fails to teach a sliding mechanism mounting the seat tray for forward and rearward movement in a single plane. However, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. With respect to Markwald, the seat tray is *capable* of forward and rearward movement in a single plane when the seat tray is moved only slightly before reaching the fully extending position of Figure 2.

Upon consideration of the Applicant's arguments, Examiner maintains the rejections of claims 3, 4, 6, 14, 15, and 20-25.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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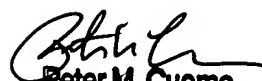
you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



JE

October 15, 2006



Peter M. Cuomo  
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